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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,392	08/01/2001	Christos Zouboulis	01895300	4392

7590
Joseph A. Mahoney
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P.O. Box 2828
Chicago, IL 60690

05/07/2003

EXAMINER

LANKFORD JR, LEON B

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 05/07/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/920,392

Applicant(s)

ZOUBOULIS, CHRISTOS

Examiner

L Blaine Lankford

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 23-62 is/are pending in the application.
- 4a) Of the above claim(s) 39,43,46 and 48-62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9,23-38,40-42,44,45 and 47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's arguments filed 2-12-3 have been fully considered but they are not persuasive.

Newly submitted claims 39, 43, 46, 48-49 & 50-62 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 39, 43, 46 & 48-49 are drawn to cloned cells which are distinct from uncloned cells. Claims 50-62 are drawn to a multiple of different, diverse inventions all different uses for the claimed and originally presented sebocytes.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 39, 43, 46, 48-49 & 50-62 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant has attempted to disqualify the art under 102(b) however the art still qualifies under 102(e) and/or (f) and clearly establishes that sebocyte cell culture is known.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9,23-38,40-42,44,45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zouboulis et al(*Dermatology* 196) or Rosenfield(6004751) in view of Bryan (*Crit Rev Onc* 5(4)).

Zouboulis and Rosenfield teach cell cultures of sebocytes particularly taken from facial sebaceous glands. Zouboulis teaches cell culture of sebocytes dates to at least 1989. The references do not teach that the cells are immortalized, however at the time the invention was made, it would have been obvious to immortalize the sebocytes of Zouboulis and/or Rosenfield because Bryan clearly teaches that cells in culture can be immortalized by SV40 and motivates one of ordinary skill in the art to do so because of the obvious advantages for study of having a cell line which does not die off. The method is not exclusive to Bryan and has been done for decades in scores of cell types. Given the breadth and success in the art of immortalization via SV40 (and other known immortalization techniques), there was clearly a reasonable expectation of success for one of ordinary skill in the art at the time the invention was made to make an immortalized human sebocyte cell line. It follows that the immortalized cell line, *per se*, would have been obvious at the time the invention was made.

Accordingly, the claimed invention was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made especially in the absence of evidence

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to the contrary.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

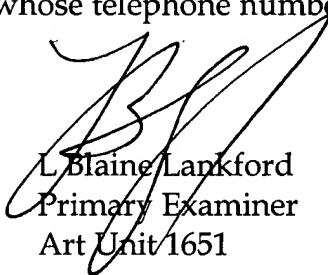
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Blaine Lankford whose telephone number is 308-2455. The examiner can normally be reached on Mon-Thu 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0196.



L. Blaine Lankford
Primary Examiner
Art Unit 1651

LBL
May 5, 2003